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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,151	07/12/2004	Yoichiro Sako	253028US6PCT	3100
22850 7590 03/02/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER CHU, KIM KWOK				
ART UNIT 2627		PAPER NUMBER		
NOTIFICATION DATE 03/02/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

10/500,151

Applicant(s)

SAKO ET AL.

Examiner

Kim-Kwok CHU

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/22/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/12/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Continued Examination after Final Rejection

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 22, 2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 35-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 35, lines 6 and 7, the phrase "at substantially regular physical intervals" is vague because there are only two subcode data (first and second as claimed in line 5) recorded in the recording medium and these two subcode data

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cannot form regular physical intervals around an entire circumference (entire surface) of the medium.

Similarly, in Claim 43, line 6, the phrase "at substantially regular physical intervals" is vague because there are only two subcode data (first and second as claimed in line 5) recorded in the recording medium and these two subcode data cannot form regular physical intervals around an entire circumference (entire surface) of the medium.

The claims not specifically mentioned above are rejected because these claims are dependent on the rejected base claims.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States*

5. Claims 35-39 and 42-46 are rejected under 35 U.S.C. § 102(b) as being anticipated by Yonemitsu et al. (U.S. Patent 5,592,450).

6. Yonemitsu teaches an optical recording medium having all the elements and means as cited in claims 35-39 and 42. For example, Yonemitsu teaches the following:

Regarding Claim 35, the optical medium 100DISC (Fig. 2) is configured to provide data structured per sub-code frame (Fig. 5; TOC contains sub-code data; Applicant's Fig. 9) for cooperating with a recording/reproducing device (Fig. 1) to provide managed access to the structured data (Fig. 10A), and, having two or more groups of sub-code frames (Fig. 10A) spirally or concentrically recorded thereon (each sector/track contains header/subcode), comprising: a first and second subcode data, identical first and second subcode data (Fig. 5; there are two identical TOCs) being repetitively recorded in a

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circumferential direction at substantially regular physical intervals of the recording medium (Fig. 5) around an entire circumference of the medium (TOCs are recorded around the entire tracks), including data uniquely for identifying the recording medium (Fig. 5; TOC contains index files of the medium), the intervals at which the first and second subcode data are recorded corresponding to a linear velocity (different locations around the track) for accessing the medium via the recording/reproducing device (Figs. 1 and 5).

Regarding Claim 36, the second type of predetermined subcode data is expressed on the recording medium as pre-pressed pits and lands which serve as a component of a unique disc identifier (UDI) which identifies a mastering apparatus (inherent feature where TOC is pre-stamped during the manufacturing process).

Regarding Claim 37, the first type of predetermined subcode data is expressed on the recording medium as a variance in reflectance of a reflective film of the recording medium, the variance being a component of a unique disc identifier (UDI) to identify the recording medium (inherent feature where TOC is read based on light reflectances on its content).

Regarding to Claim 38, the recording medium is a disc encoded with error detection (CRC) and error correction data

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(Figs. 1 and 10A).

Regarding Claim 39, the subcode is provided in a compact disc (CD) format (column 2, lines 24-28).

Regarding Claim 42, the first and second type of predetermined subcode data are recorded in a Q channel of the two or more groups of sub-code frames (Figs. 5 and 10; a subcode frame inherently contains a Q channel).

7. Claims 43-46 have limitations similar to those treated in the above rejection, and are met by the reference as discussed above. Claim 43 however also recites the following limitation which is also taught in the prior art of Maeda et al.:

(a) a recording/reproducing device configured to access a recording medium (Fig. 2).

Related Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Verbakel et al. (6,370,090) is pertinent because Verbakel teaches a plurality of TOCs in a recording medium.

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Allowable Subject Matter

9. Claims 40 and 41 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is an Examiner's statement of reasons for the indication of allowable subject matter based on Amendment filed on December 22, 2009:

As in claim 40, the prior art of record fails to teach or fairly suggest an optical recording medium having the following feature:

(a) the identical first and second subcode data is repetitive recorded five repetitions at intervals of twelve subcode frames.

As in claim 41, the prior art of record fails to teach or fairly suggest an optical recording medium having the following feature:

(a) the medium is rectangular and the second subcode is arranged on one side of the medium at regular intervals.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

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11. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington, can be reached on (571) 272-4483.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/
Examiner AU2627
February 24, 2010
(571) 272-7585
/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627